



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: JUNE 24, 2022

IN THE MATTER OF:

Appeal Board No. 621701

PRESENT: GERALDINE A. REILLY, MEMBER

The Department of Labor issued the initial determination holding the claimant ineligible to receive benefits, effective March 16, 2020 through December 20, 2020, on the basis that the claimant did not comply with registration requirements. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There was an appearance on behalf of the claimant. By decision filed February 24, 2022 (), the Administrative Law Judge sustained the initial determination as modified to be effective March 16, 2020 through November 29, 2020.

The claimant appealed the Judge's decision to the Appeal Board. The Board considered the arguments contained in the written statement submitted on behalf of the claimant.

Our review of the record reveals that the case should be remanded to hold a hearing. At the hearing, the claimant was not permitted to introduce evidence regarding the details surrounding the claimant's employment and his application for benefits. The Board has determined that a hearing should be held to take further relevant testimony and evidence regarding the background and details of the claimant's application for benefits, including any and all filings in other states after March 16, 2020. In this regard, the person who assisted the claimant with his filing a claim in August 2020 should be produced to testify regarding the details

of the filing claims on behalf of the claimant, including the state in which

he filed the application, which program or programs the claim was filed for, any determinations or notifications were received by the claimant, and any attempts to contact the Department of Labor on the claimant's behalf. The claimant's representative shall be afforded the opportunity to testify on behalf of the claimant and provide further relevant testimony and evidence in this matter.

The Commissioner of Labor should be represented at the hearing. The Commissioner of Labor's representative shall be afforded the opportunity to cross-examine the claimant's testimony from the prior hearing, as well as the testimony of the claimant and any witnesses that testify on the claimant's behalf at the remand hearing. The Commissioner of Labor shall have the opportunity to offer objections to the document that was taken into evidence at the prior hearing. In addition, the Commissioner of Labor shall be afforded the opportunity to produce testimony and evidence regarding the issue of failure to comply with registration requirements and shall produce a witness to testify regarding what contact, if any, the New York State Department of Labor had with the New Jersey Department of Labor, any details regarding the claimant's eligibility for benefits, including Pandemic Unemployment Assistance (PUA) benefits, and any information regarding the claimant's eligibility for an interstate wage claim based upon his employment prior to filing his claim. Any testimony on behalf of the Commissioner of Labor shall be subject to cross-examination by the claimant. The parties shall be provided an opportunity to make a closing statement.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issue of failure to comply with registration requirements ONLY, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issue, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

GERALDINE A. REILLY, MEMBER